

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KEON V. LIPSCOMB,

Plaintiff,

v.

C/O CHOATE, *et al.*,

Defendants.

Case No. 24-cv-01870-SPM

MEMORANDUM AND ORDER

MCGLYN, District Judge:

This matter is before the Court on the Motion for Entry of Default and Motion for Default Judgment filed by Plaintiff Lipscomb against Defendant Spiller. (Doc. 26, 27). For the reasons set forth below, the motions are denied.

After Defendant Spiller failed to return requests for waiver of service, the Court directed the United States Marshals Service to formally serve process on Spiller. (Doc. 18, 19, 23, 24). Summons was returned executed on May 21, 2025, and Defendant Spiller's answer to the Complaint was due May 28, 2025. (Doc. 25). On May 23, 2025, Plaintiff filed the current motions before the Court – Motion for Entry of Default and Motion for Default Judgment. On June 4, 2025, Attorney CreelGould entered his appearance on behalf of Defendant Spiller and filed a response to the motions. (Doc. 28, 29). In the response, Defendant Spiller asks the Court to deny the motions and to extend the deadline to file an answer to Plaintiff's Complaint. (Doc. 29).

The Court first notes that Plaintiff's motions were premature and filed prior to the deadline for Defendant Spiller to file his answer. While ultimately Defendant Spiller did fail to timely respond to the Complaint, the Seventh Circuit has established policy favoring a trial on the merits of a case as opposed to default judgment. *See, e.g., Cracco v. Vitran Exp., Inc.*, 559 F.3d 625, 631 (7th Cir. 2009). Defense counsel entered his appearance only a week after the deadline to answer

expired and is ready to put forth a meritorious defense. Allowing the parties to proceed will not prejudice Plaintiff given that this case is still in the early stages. Accordingly, Plaintiff's Motion for Entry of Default and Motion for Default Judgment are **DENED**. The request to extend the deadline to answer the Complaint is **GRANTED**. Defendant Spiller's answer is **DEEMED** timely filed.

IT IS SO ORDERED.

DATED: July 1, 2025

s/Stephen P. McGlynn
STEPHEN P. MCGLYNN
United States District Judge